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MACHINISTS & AEROSPACE WORKERS, AFL-CIO,
7 DISTRICT LODGE 725

8 UNITED STATES OF AMERICA
9 NATIONAL LABOR RELATIONS BOARD
10 REGION 21

11 CYTEC PROCESS MATERIALS (CA) INC. /
12 SOURCE ONE STAFFING, LLC,

13 Employer,

14 and

15 INTERNATIONAL ASSOCIATION OF
16 MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 725,

17 Petitioner.
18

No. 21-RC-185937

**OPPOSITION TO REQUEST FOR
REVIEW**

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20 In the case at hand, the Employer seeks modification from the stipulated election
21 agreement that it knowingly entered into. On October 11, 2016, the Union filed an RC petition
22 regarding the jointly employed Source One Staffing and Cytec employees at the Santa Fe Springs
23 facility. The required form that must be used to seek an RC election does not have any space to
24 indicate that an *Armour-Globe* election is sought. However, the Union provided notice to the
25 Region upon the filing of the petition that it sought an *Armour-Globe* election. This request for
26 an *Armour-Globe* election is later reflected in the stipulated election agreement that was entered
27 into by both sides. The Employer, through this request for review, now seeks a modification to
28 the stipulated election agreement.

1 Board law is clear that when the parties have entered into a stipulated election agreement,
2 the stipulated unit as stated in the agreement is the appropriate unit unless it creates a manifest
3 injustice. *Halsted Communications*, 347 NLRB 225, 225 (2006); *Laidlaw Transit, Inc.* 322
4 NLRB 895, 895 (1997). Thus, under established Board precedent, it is the Board's job to
5 determine and enforce the parties' intent as reflected in their election agreement. Here, there is
6 no reason to set aside the stipulated election agreement as written and agreed upon by the parties.
7 The "including" and "excluding" language in the stipulated election agreement read in isolation,
8 and emails from the Board agent to the parties, each provide an incomplete review of the
9 documents that are appropriate in this record.

10 The request for review does not raise an issue under any of the four areas outlined in 29
11 USC § 153(b), which states the appropriate basis for review. The Employer's stated basis for
12 review is "the facts of this case, as laid out above, demonstrate that the practice in this election
13 departed from Board precedent and procedure with prejudicial effect, for both Cytec and the
14 employees in the bargaining unit." This statement appears to be an attempt to merge 153(b)(1)'s
15 requirement of a substantial question of law if there is a departure from officially reported Board
16 precedent with subsection 3's requirement regarding the conduct of any hearing or ruling made in
17 connection with a proceeding that resulted in a prejudicial error. However, here there was neither
18 a hearing or ruling made in connection with this proceeding that is inconsistent with the
19 agreement entered into by the parties, nor is there a substantial question of law raised by the
20 request for review.

21 Without precedent, the Employer takes the position that notice to the employees of the
22 larger unit to which they belong is critical to the self-determination process. There is no
23 precedent which provides basis for that statement. Similarly, the Region's prior issuance of an
24 incorrect certification in no way provides basis for the document issued in error to override the
25 clear intent of the parties to have an *Armour-Globe* election.

26 Further, if the Employer sought to have the outcome of the election set aside based on the
27 notice's lack of language regarding the *Armour-Globe* component of the election, this issue
28 should have been raised in an objection to the election, rather than as an objection to the

1 certification. Because the Employer did not file a timely objection to the election prior to the
2 issuance of the certification of representative, asserting, for example, that the Notice of Election
3 was inaccurate, it is foreclosed from doing so here.

4 Based on the above and upon the record in this matter, the Union requests the Employer's
5 Request for Review be denied.

6
7 Dated: February 2, 2017

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

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9 By: /S/ CAREN P. SENCER
CAREN P. SENCER

10 Attorneys for Petitioner INTERNATIONAL
11 ASSOCIATION OF MACHINISTS &
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12 LODGE 725

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1 **CERTIFICATE OF SERVICE**

2 This is to certify that on this 2nd day of February, 2017, a copy of International
3 Association of Machinists & Aerospace Workers, AFL-CIO, District Lodge 725's Opposition to
4 Request for Review was electronically filed with the Office of Executive Secretary/Board and
5 Region 21 using the NLRB's E-Filing system on the Agency's website at www.nlr.gov and was
6 served electronically on this date on counsel for Cytec and counsel for Source One Staffing using
7 the following e-mail addresses:

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9 Counsel for Cytec: David M. Buday – budayd@millerjohnson.com

10 Counsel for Source One Staffing: Anthony Amendola - aia@msk.com

11 Dated: February 2, 2017

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